

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BRIAN E. CALDWELL and U.S. POSTAL SERVICE,
POST OFFICE, Houston, Tex.

*Docket No. 97-2220; Submitted on the Record;
Issued April 15, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has established that his recurrence of disability on and after October 14, 1995 was causally related to his April 8, 1988 work injury.

The Board has duly reviewed the case record and finds that appellant has failed to establish that he sustained a recurrence of disability causally related to his April 8, 1988 work injury.

Under the Federal Employees' Compensation Act,¹ an employee who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable, and probative evidence that the recurrence of the disabling condition for which compensation is sought is causally related to the accepted employment injury.² As part of this burden the employee must submit rationalized medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the current disabling condition is causally related to the accepted employment-related injury,³ and supports that conclusion with sound medical reasoning.⁴

Thus, the medical evidence must demonstrate that the claimed recurrence of disability was caused, precipitated, accelerated, or aggravated by the accepted injury.⁵ In this regard,

¹ 5 U.S.C. §§ 8101-8193.

² *Dennis J. Lasanen*, 43 ECAB 549, 550 (1992).

³ *Kevin J. McGrath*, 42 ECAB 109, 116 (1990).

⁴ *Lourdes Davila*, 45 ECAB 139, 142 (1993).

⁵ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.2 (June 1995).

medical evidence of bridging symptoms between the recurrence of disability and the accepted injury must support the physician's conclusion of a causal relationship.⁶

In this case, appellant, then a 27-year-old postal worker, stated that he sustained an employment-related injury to his right knee on April 8, 1988 as the result of trying to return an APC full of mail to its proper position and twisted his knee. The Office of Workers' Compensation Programs accepted the claim for a right knee sprain with a subsequent right knee arthroscopy performed.

Appropriate medical and compensation benefits were authorized and paid. Continuation of pay was authorized for the period April 9 to June 3, 1988. Appellant entered into a leave-without-pay status on June 9, 1988 and continued to be in receipt of compensation for temporary total disability until his return to limited-duty work on November 20, 1989. Appellant began losing time from work on September 19, 1990, but returned to limited duty.⁷ His duties require him to do sedentary work only with no lifting over 20 pounds, and his medical restrictions require him to walk every 40 to 45 minutes.

On February 7, 1996 appellant filed a notice of recurrence of disability claiming that since his injury he has had daily pain in his right knee and some pain in his left knee due to putting most of his weight on his left leg. Submitted with his recurrence claim were copies of medical documents from Dr. Roy Smith, a Board-certified orthopedist, dated April 5 and February 15, 1989, June 9, 1992, July 28, 1993, and October 5, 1994. These documents, however, do not provide medical evidence of disability for the claimed period of recurrence.

In an April 19, 1996 letter, the Office requested that appellant submit evidence showing at least one of the following actions had happened: (1) that his light-duty assignment changed (became more demanding) such that it no longer met the restrictions set by his doctor, or (2) that he stopped work because of a worsening in his employment-related condition. Appellant failed to respond to the Office's request.

By decision dated May 22, 1996, the Office denied the recurrence claim on the grounds that the medical evidence of file failed to establish a causal relationship between the accepted injury and the claimed recurrence of disability. The Office noted that the medical evidence of file failed to provide the attending physician's description of the current objective findings which convinced him that appellant was no longer capable of performing the duties he had been performing when he stopped work.

After the issuance of the formal decision, appellant submitted CA-17 forms dated May 6, May 31, July 29 and September 23, 1996; prescription pad notes from Dr. Smith dated July 22, August 15 and October 4, 1996; and a February 7, 1997 Form CA-17 from Dr. W. Carl McGarey, a Board-certified orthopedist. The Office advised appellant in letters dated July 22 and November 6, 1996 of his appeal rights.

⁶ *Leslie S. Pope*, 37 ECAB 798, 802 (1986); cf. *Richard McBride*, 37 ECAB 748, 753 (1986).

⁷ By letter dated March 25, 1993, appellant was awarded a schedule award for a 37 percent permanent impairment to the right lower extremity. The award period ran from December 9, 1991 to December 3, 1993.

By letter dated January 9, 1997, appellant requested reconsideration.⁸ Submitted with his request for review was an October 30, 1996 report, an undated Form CA-20, a May 17, 1996 report, and a return to work slip from Dr. Smith; an October 14, 1996 operative report and a November 6, 1996 report from Dr. McGarey; and a copy of a Form CA-7 dated June 11, 1996 claiming compensation for the period May 23 to May 30, 1996.

In a merit decision dated March 12, 1997, the Office denied appellant's request for modification of its prior decision. The Office noted that it reviewed both the evidence received after the issuance of the formal decision and the evidence submitted with appellant's reconsideration request.

The Board finds that none of the medical reports submitted address the issue of whether appellant's claimed recurrence of disability on and after October 16, 1995 is causally related to the April 8, 1988 accepted work-related injury of right knee sprain.

In his medical report of October 30, 1996, Dr. Smith reported that he has treated appellant since he sustained an injury to his right knee on April 8, 1988. He further stated that appellant had been seen at intervals, with occasional loss of time from work due to swelling and pain. The report concludes with Dr. Smith's opinion that appellant's work injury resulted in the need for a total right knee replacement. Dr. Smith reported on the Form CA-20 and Form CA-17 dated May 31, 1996 that appellant was totally disabled from work for the period May 23 to May 30, 1996. No rationale, however, was provided for his opinion.

In his May 17, 1996 report, Dr. Smith reported that he had examined appellant on March 27, 1995 for the first time since October 1994 and that he had provided him a note for light duty. Appellant was reexamined on July 10, 1995, with no change in his symptoms. It was reported that appellant complained of popping and giving way of the right knee, when he was examined on October 20, 1995, and that he had been off work since October 23, 1995. Dr. Smith gave him a note to return to light duty. At the time of the next examination on November 6, 1995, appellant complained of an increase in symptoms and that he had been at work for a week; however, Dr. Smith reported that the examination of the right knee was essentially unchanged and returned appellant to light duty. On November 22, 1995 appellant reported that his knee had gone out on him while walking down some stairs and that he could not work, but once again, Dr. Smith's examination revealed no change in the knee and appellant was released to light duty. Total knee replacement was recommended during this visit. Subsequent examinations on March 6, April 3 and May 6, 1996, all resulted in the same recommendation for a right knee replacement and a release of appellant for continued light duty, since examinations of the knee were essentially unchanged.

Although the patterns exhibited in Dr. Smith's reports clearly show that appellant ceased working due to complaints of an increase in his symptoms, the medical evidence clearly reflects that when medical attention was obtained, each subsequent evaluation showed no change in the

⁸ It is noted that in appellant's narrative statement, he spoke about the medical necessity for a total right knee replacement for which he underwent surgery. Because the Office never issued a formal decision on the request for surgery, the Board need not consider this issue.

condition of the knee and appellant was routinely released back to light duty. The fact that appellant stated that he could not return to work is not sufficient to establish that he was totally disabled from work as a result of his employment injury. Dr. Smith's reports fail to provide any medical reasons for appellant's work stoppage and only state that appellant reported that he could not work. This is not sufficient to establish that appellant sustained a recurrence of disability related to his original employment-related injury.

The other medical evidence offered fails to discuss how appellant's April 8, 1988 work injury could be a contributing factor to appellant's current knee condition.

Appellant has attributed his current knee condition to the April 8, 1988 work injury and was informed by the Office that he was responsible for obtaining a rationalized medical report in support of an October 1995 recurrence of disability. However, appellant has failed to submit medical evidence which discusses his current knee condition and the accepted work injury of a knee sprain, and then explains with medical rationale how the October 1995 recurrence of disability was a progression of or related to the employment-related injury in 1988. Inasmuch as appellant has failed to submit probative medical evidence establishing the required connection, the Office properly denied his claim for compensation.

The decisions of the Office of Workers' Compensation Programs dated March 12, 1997 and May 22, 1996 are affirmed.

Dated, Washington, D.C.
April 15, 1999

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member